

“Your greatest self has been waiting your whole life; don't make it wait any longer.”
Steve Maraboli

NATIONAL

BANKS AGREE TO RESOLVE STRESSED ASSETS QUICKLY

24 public, private and foreign banks have signed inter-creditor agreements (ICA) to resolve stressed assets.

The move comes after RBI dismantling of all the existing resolution mechanisms, such as the joint lenders’ forum in its 12 February circular.

RBI asked lenders (Banks, NBFC) to start resolution for the assets even if the default was by one day.

It had also mandated that if the resolution plan was not finalised within 180 days, the account had to be referred for bankruptcy proceedings.

The ICA is applicable to all corporate borrowers who have availed loans for an amount of Rs.50 crore or more under consortium lending / multiple banking arrangements.

The lender with the highest exposure to a stressed borrower will be authorised to formulate the resolution plan which will be presented to all lenders for their approval.

The decision making shall be by way of approval of ‘majority lenders’ (i.e. the lenders with 66% share in the aggregate exposure).

Once a resolution plan is approved by the majority, it shall be binding on all the lenders that are a party to the ICA.

Dissenting lenders can either sell their exposure to another lender at a 15% discount or buy the entire exposure of all the banks involved, at a 25% premium.

One of the major concern with ICA is to achieve consensus among the lending banks on what should have been a common resolution plan which would have benefited the banks.

The Mehta committee had estimated Rs 2.1 lakh crore of stressed assets in the Rs 50 crore to Rs 500 crore category. The total stress in public sector banks is estimated at Rs 10.6 lakh crore, as on March 31, 2018.

What is ICA and how will it work?

The pact: ICA is an agreement among banks that have dues from a borrower in stress. The pact mandates the lead bank to formulate a resolution plan that will be executed in a time-bound manner

Applicability: All corporate loans above ₹50 crore

Binding condition: If 66%, or two-third, of the lenders in terms of aggregate exposure approve, then the pact is binding on all the lenders

Exit option: Dissenting lenders will have an exit route, either selling their exposure at a discount or buying exposure of the other lenders at a premium

Who is in? 24 banks, including SBI, Bank of India and Corporation Bank have already signed up. A majority of the lenders are expected to follow suit by the end of the week. Some NBFCs may also come on board



REFORM INITIATIVE FOR INDIAN ARMY BASED ON RECOMMENDATIONS OF SHEKATKAR COMMITTEE

Inter-creditor agreements (ICA):

Inter-Creditor Agreement (ICA) was framed under the aegis of the Indian Banks’ Association.

It follows the recommendations of the Sunil Mehta Committee on stressed asset resolution.

Both Bank and NBFC could be part of ICA.

ICA is primarily focused on the Rs.50 crore- Rs.500 crore and the Rs.500 crore- Rs.2,000 crore categories.

The government recently reviewed the implementation of ambitious reform initiative for the Indian Army based on recommendations of a committee headed by Lt Gen (retd) DB Shekatkar.

Shekatkar Committee was tasked with suggesting steps to enhance combat capability of the armed forces.

Measures as recommended by the Committee and taken up for implementation include:

- Optimization of Signals Establishments to include Radio Monitoring Companies, Corps Air Support Signal Regiments, Air Formation Signal Regiments, Composite

Signal Regiments and merger of Corps Operating and Engineering Signal Regiments.

- Restructuring of repair echelons in the Army to include Base Workshops, Advance Base Workshops and Static / Station Workshops in the field Army.
- Redeployment of Ordnance echelons to include Vehicle Depots, Ordnance Depots and Central Ordnance Depots apart from streamlining inventory control mechanisms.
- Better utilization of Supply and Transportation echelons and Animal Transport Units.
- Closure of Military Farms and Army Postal Establishments in peace locations.
- Enhancement in standards for recruitment of clerical staff and drivers in the Army.
- Improving the efficiency of the National Cadet Corps.

PARLIAMENT GIVES NOD TO PREVENTION OF CORRUPTION (AMENDMENT) BILL

The Lok Sabha passed the Prevention of Corruption (Amendment) Bill, 2018 that seeks to punish bribe-givers and bribe-takers.

The Bill provides for jail terms of three to seven years, besides fine, to those convicted of taking or giving bribes to public officials.

The Bill also extends the ambit of public servants who will be protected by the provision of a prior government sanction for prosecution.

Safeguards had been provided to ensure that honest officers were not intimidated by false complaints.

In a departure from the earlier anti-corruption law, the current law makes a distinction between collusive bribe givers and those who are forced to give.

In such cases, the Bill seeks to protect those who report the matter within seven days.

INSULATING PUBLIC SERVANTS: Lowdown on the significant changes in the Prevention of Corruption Act, 1988, adopted by both Houses of Parliament

| | | | | |
|--|--|--|--|--|
|  <p>Bribery What is new</p> <ul style="list-style-type: none"> • Giving a bribe is now an offence, punishable by a 7-year prison term • Except when one is forced to give a bribe. But it should be reported if to within seven days • Bribe is termed 'undue advantage', defined as 'gratification other than legal remuneration' <p>What it was</p> <ul style="list-style-type: none"> • No specific provision, except as abatement <p><i>It could empower the public to refuse to give a bribe but seven-day limit may not be enough. As to what happens if citizen's report of coercion is not registered by the police is unclear</i></p> |  <p>Pre-investigation approval What is new</p> <ul style="list-style-type: none"> • Police officer cannot begin probe without prior approval of relevant authority or govt (except when caught red-handed) <p>What it was</p> <ul style="list-style-type: none"> • No such provision in the Act, but a rule similar to it was struck down by Supreme Court <p><i>Protection formerly available to officials of rank of joint secretary and above (before SC struck it down) is extended to all public servants</i></p> |  <p>Sanction for prosecution What is new</p> <ul style="list-style-type: none"> • Sanction needed for prosecuting former officials for offences done while in office • Centre may notify guidelines for sanction • Decision on request for sanction within 3 months, which may be extended by a month* <p>What it was</p> <ul style="list-style-type: none"> • Sanction was required under PCA for serving officers only <p><i>Sanction for IPC offences covered both serving and retired officers. Guidelines and time-limit may help make sanction process easier</i></p> |  <p>Criminal misconduct What is new</p> <ul style="list-style-type: none"> • Only be two forms of criminal misconduct. • Misappropriation of property entrusted to public servant • Intentionally enriching oneself illicitly <p>What it was</p> <ul style="list-style-type: none"> • There were five kinds: omitted ones are taking bribe habitually, getting anything free or at a concession, obtaining pecuniary advantage for oneself or for another without public interest <p><i>This is to protect public servants from being wrongly prosecuted for official decisions. Earlier it was a crime to 'obtain advantage to a private party without public interest'</i></p> |  <p>Forfeiture of property What is new</p> <ul style="list-style-type: none"> • Section introduced for Special Court under this Act to attach and confiscate property <p>What it was</p> <ul style="list-style-type: none"> • This was not done under the Prevention of Corruption Act, but under a 1944 ordinance through civil courts <p><i>This helps avoid a fresh procedure to confiscate property obtained through corruption, enables court conducting trial to do so itself</i></p> <p>Compiled by K. Venkataramanan</p> |
|--|--|--|--|--|

The amendments propose that a police officer will now have to take prior permission from appropriate authorities while pursuing cases against all public servants.

Earlier, prior permission was needed only for joint secretaries and above.

SPECIAL AYUSH CLINICS FOR THE ELDERLY

The Government provides optimum services to the elderly under AYUSH system of medicines.

As Health is a State subject, the opening of a special clinic for elder persons in villages comes under the purview of the respective State/UT Government.

Under Centrally Sponsored Scheme of National AYUSH Mission (NAM), there is a provision of financial assistance to the States/UTs for setting up of up to 50-bedded integrated AYUSH Hospitals and for the establishment of AYUSH facility in Primary Health Centres (PHCs).

Under NAM there is a provision of the supply of essential drugs to the AYUSH hospitals and dispensaries through which the public including elderly persons can avail free services.

In addition, Central Council for Research in Ayurvedic Sciences (CCRAS), an autonomous organization under Ministry of AYUSH is providing health services to the elderly persons through its 23 Clinical units (Special Geriatric Clinics) located throughout the country.

Central Council for Research in Homoeopathy, an autonomous organization under Ministry of AYUSH is providing health services to the elderly persons through its 23 research centres and 8 peripheral Out Patient Departments (OPDs) located throughout the country.

Central Council for Research in Siddha (CCRS), an autonomous organization under Ministry of AYUSH is also providing Geriatric special Out-Patient services.

Further, National Institute of Siddha (NIS), an autonomous organization under Ministry of AYUSH also conducts a special OPD for elderly persons where Geriatric patients are exempted from payment of Indoor-Patient Department (IPD) charges.

National AYUSH Mission:

Department of AYUSH, Ministry of Health and Family Welfare, Government of India has launched National AYUSH Mission (NAM) during 12th Plan for implementing through States/UTs.

The basic objective of NAM is:

- To promote AYUSH medical systems through cost-effective AYUSH services,
- Strengthening of educational systems,
- Facilitate the enforcement of quality control of Ayurveda, Siddha and Unani & Homoeopathy (ASU &H) drugs and sustainable availability of ASU & H raw-materials.

It envisages flexibility of implementation of the programmes which will lead to a substantial participation of the State Governments/UT.

The NAM contemplates the establishment of a National Mission as well as corresponding Missions in the State level.

ANTI-TRAFFICKING BILL MAY LEAD TO CENSORSHIP

The Govt introduced the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, in the Lok Sabha.

The intention of the Union government is to “make India a leader among South Asian countries to combat trafficking” through the passage of this Bill.

Good intentions aside, there are a few problematic provisions in the proposed legislation, which may severely impact freedom of expression.

It proposes a minimum three-year sentence for producing, publishing, broadcasting or distributing any type of material that promotes trafficking or exploitation

A/c to Section 36 “any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner” has wide amplitude as Bill does not define what constitutes “promotion”.

For example, in moralistic eyes, any sexual content online could be seen as promoting prurient interests, and thus also promoting trafficking.

In June 2016, the Union government banned 240 escort sites for obscenity even though it cannot do that under Section 69A or Section 79 of the Information Technology Act, or Section 8 of the Immoral Traffic (Prevention) Act.

In July 2015, the government asked internet service providers (ISPs) to block 857 pornography websites sites on grounds of outraging “morality” and “decency”, but later rescinded the order after widespread criticism.

If historical record is any indication, Section 36 in this present Bill will legitimize such acts of censorship.

Section 39 proposes a weaker standard for criminal acts by proposing that any act of publishing or advertising “which may lead to the trafficking of a person shall be punished” (emphasis added) with imprisonment for 5-10 years.

In effect, the provision mandates punishment for vaguely defined actions that may not actually be connected to the trafficking of a person at all.

The excessive scope of this provision is prone to severe abuse since, without any burden of showing a causal connection, it could be argued that anything “may lead” to the trafficking of a person.

Another by-product of passing the proposed legislation would be a dramatic shift in India’s landscape of intermediary liability laws, i.e., rules which determine the liability of platforms such as Facebook and Twitter and messaging services like WhatsApp for hosting or distributing unlawful content.

Provisions in the Bill that criminalize the “publication” and “distribution” of content, ignore that modern electronic communication requires third-party intermediaries to store and distribute content.

Under the proposed legislation, the fact that human traffickers used WhatsApp to communicate about their activities could be used to hold the messaging service criminally liable.

Comparing the bill with global standards

The Bill is in direct conflict with the internationally recognized Manila Principles on Intermediary Liability.

It is also in dissonance with existing principles of Indian law, flowing from the Information Technology Act, 2000, that identify online platforms as “safe harbours” as long as they act as mere conduits.

From the perspective of intermediaries, monitoring content is unfeasible, and sometimes technologically impossible as in the case of Whatsapp, which facilitates end-to-end encrypted messaging.

Way forward:

The proposed changes will invariably lead to a chilling effect on speech on online platforms.

Considering these problematic provisions, it will be a wise move to send the Bill to a select committee in Parliament.

The relevant stakeholders can engage with the lawmakers to arrive at a revised Bill, hopefully, one which prevents human trafficking without threatening the Constitutional right of free speech.

GST COUNCIL REDUCED TAX SLABS

Goods and Services Tax Council has announced a reduction in the tax rates for over 85 goods.

On consumer durables such as television sets, washing machines and refrigerators, along with a dozen other products, have been slashed from 28% to 18%.

This rate cut leave leaves just about 35 products, including tobacco, automobiles and cement, in the highest tax slab of the GST structure.

The tax rate on environmentally friendly fuel cell vehicles has been reduced from 28% to 12%, and the compensation cess levied on them dropped.

Rakhis without semi-precious stones, as well as sanitary napkins that attracted 12% GST, have been exempted from the tax

Employment-intensive sectors such as carpets and handicrafts have been placed in lower tax slab

These rate cuts would be a stimulus to drive consumption ahead of the festive season.

It is also a sign that the government has begun the groundwork to woo voters ahead of State and parliamentary elections.

However these rate cuts raise two major concerns

Firstly, since the new rates are to kick in from July 27, companies may not have enough time to rework pricing strategies and replace existing market inventory, failing which they could face anti-profiteering action.

Secondly, members of the Council have for the first time questioned its functioning and alleged that not all of the changes and rate cuts were placed on the agenda.

For a rationalize tax structure Centre-States cooperation must be maintained
